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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
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U.S. Citizenship
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FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: OCT 06 2009
[WAC 01 245 51426]

IN RE: Applicant: [REDACTED]

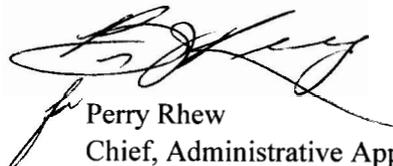
APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration
and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the Vermont Service Center. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).


Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application was withdrawn by the Director, Vermont Service Center. The application is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is a native and citizen of El Salvador who is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. §1254.

The director determined that the applicant had been convicted of two or more misdemeanors in the United States. The director, therefore, denied the application.

The record reveals that the applicant filed a TPS application during the initial registration period on June 27, 2001 under receipt number WAC 01 245 54126. The Director, Vermont Service Center, approved that application on January 31, 2006.

The director may withdraw the status of an alien granted Temporary Protected Status under section 244 of the Act at any time if it is determined that the alien was not in fact eligible at the time such status was granted, or at any time thereafter becomes ineligible for such status. 8.C.F.R. § 244.14(a)(1).

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant who is a national of a foreign state designated by the Attorney General is eligible for temporary protected status only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign state designated under section 244(b) of the Act;
- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;
- (c) Has continuously resided in the United States since such date as the Attorney General may designate;
- (d) Is admissible as an immigrant except as provided under section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
 - (1) Registers for TPS during the initial registration period announced by public notice in the *Federal Register*, or
 - (2) During any subsequent extension of such designation, if at the time of the initial registration period:....

Section 244(c) ALIENS ELIGIBLE FOR TEMPORARY PROTECTED STATUS.-

(2) ELIGIBILITY STANDARDS.-

(B) ALIENS INELIGIBLE. - An alien shall not be eligible for temporary protected status under this section if the Attorney General finds that-

(i) the alien has been convicted of any felony or 2 misdemeanors committed in the United States,....

"Misdemeanor" means a crime committed in the United States, either (1) punishable by imprisonment for a term of one year or less, regardless of the term such alien actually served, if any, or (2) a crime treated as a misdemeanor under the term "felony" of this section. For purposes of this definition, any crime punishable by imprisonment for a maximum term of five days or less shall not be considered a misdemeanor. 8 C.F.R. § 244.1.

The record reveals the following offenses:

- (1) On February 19, 2007, the applicant was arrested by the Harrisonburg, Virginia Police Department for "No VA DL", and "No City Decal."
- (2) On April 22, 2007, the applicant was arrested by the Harrisonburg, Virginia Police Department for "No Operator's License."
- (3) On March 16, 2007, the applicant was arrested by the Harrisonburg, Virginia Police Department for "Hit and Run – Personal Injury", "Insur: Operate Uninsured Veh", "Drive Without License", and "Generally Endanger Life/Limb/Property."

Pursuant to a letter dated March 17, 2008, the applicant was requested to submit the final court disposition for each of the charges detailed above. In response, the applicant submitted the requested documents. According to the dispositions:

- (4) On May 10, 2007 the applicant pled guilty and was convicted of "No VA DL." The "No City Decal" charge was dismissed.
- (5) On June 6, 2007, the applicant pled guilty and was convicted of "No Operator's License."
- (6) On March 16, 2007 the applicant pled guilty and was convicted of a reduced charge of 'Hit and Run', "Insur: Operate Uninsured Veh", "Drive Without License", and "Generally Endanger Life/Limb/Property", all misdemeanors.

On appeal, the applicant states that this was the first time he had been arrested since he came to the United States and it was caused by the bad weather conditions. However, the record reflects that the applicant has been convicted of two or more misdemeanors committed in the United States. Therefore,

the applicant is ineligible for temporary protected status because of his misdemeanor convictions. 8 C.F.R. § 244.4(a).

The burden of proof is upon the applicant to establish that he or she meets the above requirements. The applicant's statement, on appeal, does not overcome the adverse evidence in the record. Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

An alien applying for temporary protected status has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has failed to meet this burden.

ORDER: The appeal is dismissed.